

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DANIEL W. RANNELS,

Plaintiff,

v.

SMITH, et al.,

Defendants.

Case No.: 1:21-cv-00049-SKO (PC)

**FINDINGS AND RECOMMENDATIONS  
TO DENY PLAINTIFF'S MOTION TO  
PROCEED *IN FORMA PAUPERIS***

(Doc. 2)

14-DAY DEADLINE

Clerk of the Court to assign a District Judge

On January 13, 2021, Plaintiff Daniel W. Rannels filed a motion to proceed *in forma pauperis* (IFP). (Doc. 2.) The certified account statement submitted by the California Department of Corrections and Rehabilitation indicates that, as of January 14, 2021, Plaintiff had \$1,337.32 in his inmate trust account. (Doc. 6.) This is more than enough to pay the filing fee of \$402 in full.

Accordingly, on January 14, 2021, the Court ordered Plaintiff to show cause, within 21 days, why his motion to proceed IFP should not be denied. (Doc. 7.) Plaintiff has not responded to the order, and the time to do so has passed.

As the Court explained in its order to show cause, proceeding “in forma pauperis is a privilege not a right.” *Smart v. Heinze*, 347 F.2d 114, 116 (9th Cir. 1965). While a party need not be completely destitute to proceed IFP, *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339-40 (1948), “the same even-handed care must be employed to assure that federal funds are

1 not squandered to underwrite, at public expense, ... the remonstrances of a suitor who is  
2 financially able, in whole or in material part, to pull his own oar.” *Doe v. Educ. Enrichment Sys.*,  
3 No. 15cv2628-MMA-MDD, 2015 U.S. Dist. LEXIS 173063, \*2 (S.D. Cal. 2015) (citation  
4 omitted).

5 Plaintiff has sufficient funds in his inmate trust account to pay the filing fee in full.  
6 Accordingly, the Court DIRECTS the Clerk of the Court to assign a district judge to this action  
7 and RECOMMENDS that:

- 8 1. Plaintiff’s motion to proceed *in forma pauperis* (Doc. 2) be DENIED; and,
- 9 2. Plaintiff be required to pay the filing fee of \$402 within 30 days of the assigned  
10 district judge’s adoption of these findings and recommendations.

11 These findings and recommendations will be submitted to the United States District Judge  
12 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). **Within 14 days** of the  
13 date of service of these findings and recommendations, Plaintiff may file written objections with  
14 the Court. The document should be captioned, “Objections to Magistrate Judge’s Findings and  
15 Recommendations.” Plaintiff’s failure to file objections within the specified time may result in  
16 waiver of his rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing  
17 *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

18 IT IS SO ORDERED.

19 Dated: **February 17, 2021**

20 /s/ Sheila K. Olerto  
21 UNITED STATES MAGISTRATE JUDGE  
22  
23  
24  
25  
26  
27  
28